

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**E.R., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Tampa, FL, Employer**

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**Docket No. 09-599  
Issued: April 23, 2009**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER DENYING REQUEST FOR ORAL ARGUMENT**

Before:  
ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge

On December 31, 2008 appellant filed for review of a November 25, 2008 decision of the Office of Workers' Compensation Programs which denied his request for reconsideration. The appeal was docketed as No. 09-599. Appellant submitted a timely request for oral argument, explaining: "Need to talk to the Board in person about my case."<sup>1</sup> He contended that the Office erred by not considering the evidence provided with his June 12, 2008 request for reconsideration, citing to *Joe E. Hendricks*.<sup>2</sup>

The Board notes that this is appellant's fourth appeal. In Docket No. 04-796, issued July 6, 2004, the Board found that appellant did not sustain an emotional condition in the performance of duty as no compensable factor of employment was established. In Docket No. 05-1529, oral argument was held before the Board on May 16, 2006. In a July 5, 2006 decision, the Board found that the Office properly denied his request for reconsideration as the evidence submitted was irrelevant to his claims of supervisory harassment and discrimination. Most recently, in Docket No. 08-445 issued on August 4, 2008, the Board found that the Office

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<sup>1</sup> 20 C.F.R. § 501.5(b) provides that a request for oral argument must be submitted in writing no later than 60 days after the filing of the appeal and specify the issue(s) to be argued and provide a statement supporting the need for oral argument.

<sup>2</sup> 43 ECAB 850 (1992).

properly denied appellant's request for reconsideration as it was untimely and failed to establish clear evidence of error in the denial of his claim.

The Board has duly considered the matter and finds that appellant's request for oral argument should be denied. Pursuant to 20 C.F.R. § 501.5(a), oral argument may be held in the discretion of the Board.<sup>3</sup> Although his request was timely filed, appellant failed to provide a need for further oral argument before the Board. His reliance on the Board's decision in *Hendricks* is misplaced as the Board does not presently have jurisdiction over the merits of his claim. The Office's November 25, 2008 decision denied further merit review finding that his request for reconsideration was untimely and did not establish clear evidence of error. The Board has previously reviewed the merits of appellant's emotional condition claim and the subsequent denials of his reconsideration requests. In the opinion of the Board, oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. Moreover, appellant's contentions on appeal can adequately be addressed in a decision based on the case record as submitted. For these reasons, oral argument is denied.

**IT IS HEREBY ORDERED THAT** appellant's request for oral argument in Docket No. 09-599 is denied. The appeal will proceed to a decision based on the case record.

Issued: April 23, 2009  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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<sup>3</sup> 20 C.F.R. § 501.5(a).